LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 21, 2021

TO: Honorable Paul Bettencourt, Chair, Senate Committee on Local Government

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB988** by Shine (Relating to ad valorem taxation; creating a criminal offense.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB988, Committee Report 2nd House, Substituted : a negative impact of ($486,000) through the biennium ending August 31, 2023.

In addition to the administrative costs for the Comptroller's office, other costs associated with implementing the provisions of the bill cannot be determined. Passage of the bill would result in reduced taxable property values. As a result, the costs to the Foundation School Fund could be increased through the operation of the school finance formulas.

General Revenue-Related Funds, Five- Year Impact:

Fiscal Year	**Probable Net Positive/(Negative) Impact to *General Revenue Related Funds***
2022	($333,000)
2023	($153,000)
2024	($153,000)
2025	($153,000)
2026	($153,000)

All Funds, Five-Year Impact:

Fiscal Year	**Probable Savings/(Cost) from *General Revenue Fund* 1**	*Change in Number of State Employees from FY 2021*
2022	($333,000)	2.0
2023	($153,000)	2.0
2024	($153,000)	2.0
2025	($153,000)	2.0
2026	($153,000)	2.0

Fiscal Analysis

The bill would amend Chapter 5 of the Tax Code, regarding state administration of property tax to require an appraisal review board (ARB) to incorporate model hearing procedures prepared by the Comptroller when adopting hearing procedures. The bill would allow an ARB to adopt procedures that supplement the model hearing procedures, provided they do not contradict or circumvent the model hearing procedures. The bill would require the Comptroller to review the hearing procedures adopted by each ARB.

The bill would require the ARB Survey report issued by the Comptroller to include a summary of comments, complaints, and suggestions forwarded by taxpayer liaison officers, the results of the Comptroller's review of ARB hearing procedures, and the results of requests for limited binding arbitration. The bill would require certain taxing units in counties with a population more than 120,000 to determine board of directors by resolution adopted at the first or second open meeting held after the date the chief appraiser delivers the ballot.

The bill would create a Class A misdemeanor for direct or indirect communication with a chief appraiser or other appraisal district employee in which a taxing unit participates for the purpose of influencing the value at which property in the district is appraised by a member of the governing body, officer, or employee of a taxing unit.

The bill would amend Chapter 11 of the Tax Code, regarding taxable property and exemptions, to increase the number of days that a governing body may permit property to remain at a particular location and remain eligible for a goods in transit exemption. The bill would authorize a taxing unit in a declared disaster area to extend by official action the number of days from 175 to 270, that certain personal property may remain at a defined location before losing eligibility for the tax exemption. The bill would require the application form that the Comptroller is required to provide to claim a property tax exemption for motor vehicles leased for use other than production of income allow a claimant certify by written, unsworn declaration that the lessee does not hold the vehicle for the production of income.

The bill would amend Chapter 21 of the Tax Code, regarding taxable situs, to provide a new method of allocating the fair market value of vessels or other watercraft used as an instrumentalities of commerce. The bill would allow a property owner operating vessels or other watercraft as instrumentalities of commerce request in writing, the appraisal district allocate the fair market value on a fleet wide basis and designate the location of the property owner's principal place of business as the taxable situs of the fleet.

The bill would amend Chapter 25 of the Tax Code, regarding property taxation and local appraisal, to provide that each appraisal record has a unique account number and an owner must be notified of any changes in the account number in the notice of appraised value. The bill would require the chief appraiser, at the request of a property owner, combine contiguous parcels or tracts of real property into a single appraisal record and separate identifiable segments of the owner's parcel or tract of real property into individual appraisal records.

The bill would prohibit a chief appraiser from delivering a corrected or amended notice of appraised value later than June 1 for property for which a person files a rendition statement or property report unless to correct a clerical error or to include omitted property.

The bill would add new section to Chapter 41 of the Tax Code, regarding local review, to require an ARB hold an informal conference with each property owner who files a notice of protest and requests an informal conference. The bill would permit a protest to be heard by a single-member panel on request of the property owner and to provide that if the recommendation of a single-member panel is not accepted by the board, the board may refer the matter for rehearing to a different single-member panel or the board may determine the protest. The bill would require an ARB determination of value to list separately the value of the land and improvements. The bill specifies additional requirements for appraisal districts established in counties with a population of 120,000 or more.

The bill would allow a person who owns property in an appraisal district or the chief appraiser to file a complaint with the taxpayer liaison officer alleging the ARB adopted or is implementing hearing procedures that are not in compliance with the model hearing procedures prepared by the Comptroller. The bill would require the taxpayer liaison officer to investigate the complaint and report to the board of directors. If the board of directors determines that the allegations are true, the board of directors is required to direct the chairman of the ARB to take remedial action. The board may remove the chairman if the board determines the chairman failed to act.

The bill would amend Chapter 41A of the Tax Code regarding appeals through binding arbitration, to authorize a property owner who has filed a notice of protest to file a request for limited binding arbitration to compel the ARB chief appraiser take certain action specified in the bill. A property owner would be prohibited from filing a request for binding arbitration unless the property owner delivered written notice to the chairman of the ARB, the chief appraiser, and the taxpayer liaison officer for the applicable appraisal district and the chairman of the

ARB or chief appraiser fail to agree to comply with the procedural requirement on or before the 10th day after the date the notice is delivered.

The bill would require a request for limited binding arbitration be in a form prescribed by the Comptroller and be accompanied by an arbitration deposit. The bill would establish arbitration deposit amounts, fees, and payment requirements upon result of the arbitration.

If an arbitrator determines that an ARB is not in compliance with procedural requirement, the bill requires the ARB to come into compliance or, if an ARB order was already issued, rescind the order and hold a new hearing.

The bill would exclude property owners deferring taxes under Section 33.06 or 33.065 on a property subject to the appeal from having to pay taxes on the value not in dispute. The bill would provide that taxes are not considered delinquent for purposes of filing for binding arbitration if the owner has deferred the payment of taxes.

Except as otherwise provided, the bill would take effect January 1, 2022.

Methodology

The bill's proposed grant of authority to taxing units to extend the deadline for goods in transit would create a cost to taxing units and to the state through the operation of the school finance formula to the extent that taxing units that exempt goods in transit property choose to extend the deadline. Many taxing units took action to tax this personal property under previous constitutional authority to do so, and the exemption does not apply in those districts. The frequency and location of future disasters and how many taxing units would choose to extend this exemption is unknown; consequently, the cost of this provision cannot be estimated.

Under current law, the fair market value of a vessel or other watercraft is allocated based on a factor of the number of miles the vessel was operated in Texas during the preceding tax year in proportion to the total number of miles the vessel was operated during that same time period. The method proposed by the bill would allow a property owner elect to allocate the fair market value of a vessel on a fleet wide basis where the allocation factor is based on the total number of miles the property owner's fleet operated in Texas in proportion to the total number of miles the fleet operated. Allowing a property owner that operates a fleet of vessels or other watercraft used as instrumentalities of commerce an alternative method of allocating fair market value of each vessel in proportion to total miles of the fleet, would be a cost to local taxing units and to the state through the operation of the school funding formula. A property owner would only elect this method of allocation when the fleet wide allocation provides a lower market value than allocating the value based on operations of an individual vessel or watercraft. Taxing units would lose taxable value and the associated property tax revenue to the new calculation. The number of property owners that would choose the allocation method proposed in the bill is unknown; consequently, the cost of this provision cannot be estimated.

The provisions requiring an appraisal district to split or combine parcels at the request of a property owner could have an indeterminate fiscal impact to units of local government and to the state.

Under current law, a property owner is required to pay the amount of taxes due on the portion of taxable value of the property that is not in dispute. A property owner is prohibited from filing an appeal under binding arbitration if the taxes on the property subject to the appeal are delinquent. Removing this restriction for property owners who have elected to defer the collection of taxes on the property under Section 33.06 or 33.065 could allow for more property owners to appeal an appraisal review board determination. The increase in property owners that would appeal through binding arbitration, the value disputed, and outcome of any determination is unknown; consequently, the fiscal impact of this provision cannot be determined.

The bill would require the Comptroller's Property Tax Assistance Division (PTAD) to receive and review each ARB's hearing procedures and receive and compile data from every County Appraisal District's taxpayer liaison officer annually. The bill would expand PTAD's reporting to include data and analysis on the ARB hearing procedures review, taxpayer liaison reporting, and limited arbitrations. The Comptroller's office indicates that implementing the provisions of the bill will require require hiring one Program Specialist III to complete these additional data collection, analysis, and reporting duties. The bill would establish a new type of limited arbitration, which the Comptroller's office expects would require hiring one Program Specialist IV to provide support. The Comptroller's office expects annual costs of $333,000 in fiscal year 2022 and $153,000 in each subsequent year. The cost estimate includes a one-time technology cost of $180,000 for updating and enhancing the arbitration system and $153,000 per year for staffing-related costs.

Technology

The Comptroller's office estimates that implementing the provisions of the bill will result in a one-time technology cost of $180,000 in fiscal year 2022. The costs are for an estimated 1,200 programming hours to update and enhance the arbitration system to support the new duties of the Property Tax Assistance Division required by the bill.

Local Government Impact

The fiscal implications of the bill cannot be determined at this time. Passage of the bill would result in reduced taxable property values. As a result, the related ad valorem tax revenue for units of local government could be reduced. Passage of the bill could result in increased administrative costs to appraisal districts.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, AF, SD, BRI, KK, MBO